been thrown off by the intervenors' ability "to raise several specific questions regarding the reasonableness of the SCIS investment studies that support rate development." Id. Contrary to the Commission's inference, the intervenors' questions were not the fruit of sensitivity analyses using Redaction II, since no such analyses were possible. Most of the questions raised were simply "well-documented suspicions regarding the potential for misuse of the costing process by the BOCs," as MCI put it.[10] Redaction II prohibited any follow-up on those suspicions.[11] Thus, the intervenors were unable to raise any issues based on the sensitivity analyses that the Commission concedes are the prerequisite to any meaningful review of the ONA tariffs.[12]

The Commission might also have assumed that each intervenor was able to review the SCIS/SCM model as to one switch type, and that the Commission therefore had the benefit of all of the intervenors' analyses of all of the different switch types. As discussed in Part A above, the SCIS Disclosure Reconsideration Order, at paragraphs 11 and 12, focuses on MCI's criticism that intervenors were not allowed to "compare notes." Since the Commission wrongly concludes that "the intervenors were able to examine the effects of SCIS inputs on SCIS outputs for all the relevant SCIS inputs except negotiated price discounts," id. at

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[10]/ MCI Opp. to Direct Cases at 33.

[11]/ Id.

[12]/ See SCIS Disclosure Reconsideration Order at ¶10.

¶14, the Commission may have wrongly assumed that each intervenor had access to a useful cost model for one switch type and that all of the intervenors' analyses taken together therefore provided the Commission with a complete picture. Nothing could be further from the truth. Since no sensitivity analyses were possible, even for the one switch type that each intervenor was permitted to review, the totality of all of the intervenors' pleadings, taken together, could not have provided, and did not provide, the Commission with any insights that sensitivity analyses might have yielded.

The Commission assumes, without any explanation, that confidentiality requirements do not provide sufficient protection for proprietary data. It simply states that great harm would result if the data were disclosed to those who could make competitive use of it.[13] It is the function of confidentiality requirements to ensure that does not happen, and the Commission has not explained why such requirements could not have performed that function here.[14] Accordingly, the Commission's assumption

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[13]/ SCIS Disclosure Reconsideration Order at ¶13.

[14]/ The Commission attempts to justify the SCIS Disclosure Reconsideration Order by alluding, in the ONA Investigation Final Order, at ¶78, to "record statements that vendors would consider withdrawing or limiting their participation in the SCIS model process if proprietary data were disclosed in full subject only to nondisclosure agreements." Third-party objections to disclosure, however, do not make confidentiality provisions any less effective or appropriate, and hardly justify secret ratemaking.

The arbitrariness of the Commission's approach is underscored by its contemporaneous adoption, over the BOCs' objections, of

is not only insulting to MCI and other intervenors, but also arbitrary and capricious.

Finally, the inadequate disclosure authorized by the SCIS Disclosure Reconsideration Order has resulted in unprecedented secret ratemaking, in violation of the Communications Act of 1934, the Administrative Procedure Act and constitutional due process requirements.[15] Although much of the discussion in these orders is couched in Freedom of Information Act terms, that statute does not necessarily govern the disclosure requirements in agency proceedings. Indeed, the Commission has pointed out that the nondisclosure authorized here cannot be justified under the Freedom of Information Act.[16] There is therefore no justification for the inadequate disclosure authorized here, which effectively permitted secret ratemaking,

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confidentiality provisions in its formal complaint rules intended to provide full disclosure of competitively sensitive data. See Amendment of Rules Governing Procedures to be Followed When Formal Complaints Are Filed Against Common Carriers, CC Docket No. 92-26, FCC 93-131 (released April 2, 1993) at ¶¶43-45 and Section 1.731 of the Commission's Rules and Regulations, 47 C.F.R. §1.731. Recently, the Commission "adopted" a Confidentiality Agreement based on those provisions in a formal complaint action to "facilitate the orderly exchange of relevant information in this proceeding." Affinity Network, Inc. v. AT&T, DA93-1527 (released Jan. 5, 1994).

[15]/ See, e.g., American Television Relay, 63 F.C.C. 2d 911, 921 (1977) (consideration of evidence that other parties have no opportunity to review violates "their right of due process").

[16]/ Allnet Communications Services, Inc. FOIA Request, 7 FCC Rcd. 6329, 6331 n. 7 (1992).

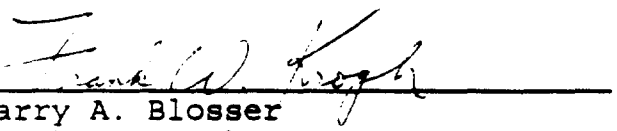
especially when standard confidentiality requirements in a protective order would have fully protected all proprietary data.

Conclusion

Accordingly, the SCIS Disclosure Reconsideration Order should be reconsidered so that MCI and other intervenors may be provided adequate disclosure of the SCIS/SCM cost models and other material necessary for meaningful participation in the ONA Tariff Investigation.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By: 

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Dated: January 14, 1994

APPENDIX B

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Commission Requirements for Cost)
Support Material To Be Filed with)
Open Network Architecture)
Access Tariffs)

TO: The Commission[1/]

APPLICATION FOR REVIEW

MCI Telecommunications Corporation (MCI), pursuant to Section 1.115 of the Commission's Rules, 47 C.F.R. § 1.115, hereby submits this Application for Review of an order issued by the Common Carrier Bureau (Bureau), Memorandum Opinion and Order, DA 92-129, released January 31, 1992 (Procedural Order).[2/] The Procedural Order specifies the procedures for the examination, by parties to the Open Network Architecture (ONA) tariff investigation, of proprietary cost models and associated materials filed in support of the initial ONA access tariffs filed by the Bell Operating Companies (BOCs) on November 1, 1991.

I. BACKGROUND AND SUMMARY

As MCI will explain below, grant of this Application for Review on an expedited basis is required because the Procedural Order is in conflict with established Commission policy and

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1/ Section 0.291(g) of the Commission's Rules and Regulations, 47 C.F.R. § 0.291, forecloses the Common Carrier Bureau from acting upon this Application.

2/ A copy of the Procedural Order is attached hereto as Exhibit A for the convenience of the Commission and its staff.

constitutes prejudicial procedural error. Although the Bureau acknowledged that Commission policy and, indeed, its own prior orders concerning the filing of ONA access tariff cost support materials favor "the fullest practicable access to these materials by entities that will use the unbundled ONA structure and services" (Procedural Order, at para. 3; See also para. 39), it proceeded to impose clearly unreasonable restrictions on the ability of intervenors to effectively review those cost support materials. The Procedural Order contains no discussion whatsoever of the specific restrictions at issue or the Bureau's rationale for adopting them. These unsupported and, at times, contradictory restrictions, apparently drawn from a variety of sources, are contained only in a "Model Nondisclosure Agreement" (Attachment A to the Procedural Order).

As will be explained below, the restrictions imposed by the Bureau unreasonably limit the ability of MCI and other intervenors to participate effectively in the instant investigation, contrary to established Commission policy. Prompt action by the Commission is required to bring the procedures established by the Bureau into conformity with Commission policy and to eliminate procedural error prejudicial to intervenors. Indeed, a failure to modify the approach adopted will undermine the efficacy of the process and will provide a legal basis upon which to seek judicial review.

MCI requests that the Commission, upon review, modify the procedures established by the Bureau in the following respects:

(1) eliminate the "one attorney, two expert" disclosure restriction contained in paragraph 8 of the Bureau's model nondisclosure agreement (the "Nondisclosure Agreement", Attachment A to the Procedural Order);

(2) revise the provisions governing copying of competitively sensitive materials by intervenors (Nondisclosure Agreement, paragraph 15) as follows:

> (a) intervenors' right to install ("copy") the cost model software onto personal computer fixed or hard disk drives, which is currently implicit, should be made explicit;
>
> (b) intervenors shall be granted, with the permission of the BOCs, which shall not be unreasonably withheld, the right to make copies of competitively sensitive materials (both paper and magnetic media) to be used exclusively by those individuals employed or assigned by intervenors to participate in this investigation, provided that:
>
> > (i) each such individual has, by executing the Access Agreement, personally assumed the obligations imposed upon intervenors by the Nondisclosure Agreement ("Authorized Individuals");
> >
> > (ii) intervenors will limit the number of copies to no more than one per Authorized Individual, will keep an accurate inventory of copies made, and will safeguard each copy as though it were an original; and
> >
> > (iii) intervenors will deliver all competitively sensitive materials, including any copies thereof, to the BOC (or its designated agent) at the conclusion of the proceeding, including all appeals, or destroy same with the express permission of the BOC.

(3) add to the Nondisclosure Agreement a provision expressly permitting Authorized Individuals acting on behalf of any intervenor: (a) to discuss competitively sensitive materials with their counterparts acting on behalf of other intervenors, and (b) to review the

competitively sensitive portions of pleadings filed by others intervenors.

II. BASES FOR GRANT OF APPLICATION

A. The Bureau's Arbitrary "One Attorney, Two Expert Restriction" Unreasonably Limits Intervenors' Ability To Participate Effectively In This Important Tariff Investigation.

Paragraph 8 of the Nondisclosure Agreement, referred to herein, as the "One Attorney, Two Expert Restriction" is perhaps the most egregious example of an unreasonable restriction on intervenors' access to competitively sensitive information produced by the BOCs in this investigation. Paragraph 8 reads as follows:

> 8. Notwithstanding paragraph 7 of this agreement, disclosure of competitively sensitive information shall be limited to one attorney and two cost accounting experts designated by [the party].

By its express terms, paragraph 8 overrides the authority granted to intervenors in paragraph 7 to disclose competitively sensitive information, inter alia, "to [the party], its associated attorneys, paralegals and clerical staff, employed in the ONA tariff investigation." The result is that not only is each intervenor limited to one attorney and two experts: because paragraph 8 expressly overrides paragraph 7, the attorney and two experts must do their own typing and photocopying to avoid violating the Nondisclosure Agreement by disclosing competitively sensitive materials to "clerical staff."

No similar restriction appears in the other Model Nondisclosure Agreement attached to the Procedural Order (Attachment C:

Model Nondisclosure Agreement for provision of unredacted SCIS [cost model] software and documentation, including algorithms, to independent auditors). The independent auditors (who, at least at this stage of the proceeding, have access to far more competitively sensitive information than do intervenors) may disclose "Competitively Sensitive Information" to agents, employees and consultants subject to three reasonable and straightforward restrictions. The auditors must: (a) give the BOC prior notice of the identity and affiliation of any such person; (b) require any such person to sign an Access Agreement, and (c) to deliver to the BOC a copy of such agreement.

As noted above, the Procedural Order does not discuss the Bureau's rationale for any of the specific provisions of the Nondisclosure Agreement. It would appear, however, that the restriction was lifted, almost verbatim, from the on-site cost model review proposal proffered by Bellcore, which was rejected by the Bureau. (Procedural Order, at paras. 21-23; compare para. 8 of the Nondisclosure Agreement with page 2 of Exhibit B hereto, a copy of a letter from James Britt, Bellcore, to Petitioners in ONA Access Charge Tariff Filings.) The Bureau has not explained its basis for imposing this restriction, proffered by Bellcore in the far different context of on-site inspections of cost model software, on intervenors. Accordingly, MCI requests that the Commission remove the "One Attorney, Two Expert Restriction" from the Nondisclosure Agreement.

B. The Bureau's "No Copying Policy" Unreasonably Limits Intervenors' Participation In This Important Tariff Investigation.

The only provision of the Nondisclosure Agreement which addresses the issue of copying is paragraph 15. Paragraph 15 states that an intervenor's counsel may request the Commission to make one copy of competitively sensitive materials, to which counsel must acknowledge receipt. Thereafter, counsel may make additional copies "to the extent required and solely for preparation and use in the ONA tariff investigation." All copies must remain in the possession and custody of counsel at all times and all competitively sensitive materials shall be returned to the Commission at the conclusion of the investigation. With one minor exception (pertaining to the requirement that all copies be retained in the possession of counsel, as will be discussed below), MCI views paragraph 15 as a reasonable set of limitations on copying of competitively sensitive materials. Unfortunately, the Bureau staff, which has informally conceded that paragraph 15 was lifted wholesale from another agreement without appropriate revisions,[3/] has also advised MCI's undersigned counsel that it intends to correct its error by the simple expedient of adopting a "no-copy policy": requests for the

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3/ MCI believes that the origin of Paragraph 15 can be traced to the Commission's investigation of the Shared Network Facilities Arrangements (SNFA) between AT&T and the BOCs, discussed in para. 31 of the Procedural Order. In that investigation, as described by the Bureau, the SNFA intercarrier agreements filed with the Commission were made available to MCI, subject to a protective order. In this proceeding, intervenors do not obtain competitively sensitive materials from the Commission, but directly from the BOCs. Procedural Order, at para. 71.

initial copy of competitively sensitive information (from which counsel may make additional copies) will not be honored; without that initial copy, reproduction of competitively sensitive materials is prohibited.

Narrowly construed, the Bureau's "no-copy policy" prohibits intervenors from installing (copying) redacted cost model software onto hard drives of personal computers, rendering the disks furnished by the BOCs useless to intervenors and totally foreclosing any review of the software. Apparently recognizing the folly of its position (all the while expressing reluctance to issue a further order modifying its procedures -- thereby necessitating this Application for Review), the Bureau has informally advised MCI that the software may be installed on one -- but only one -- personal computer.

The provisions of paragraph 15 of the Nondisclosure Agreement require MCI's counsel of record (based in Washington), and its two designated experts (based in Atlanta, Georgia and Austin, Texas) to gather in Washington, share a single copy of the printed materials, and "time share" access to one personal computer. Furthermore, the Bureau has given intervenors one week, until March 9, (Procedural Order, at para. 68) to review the redacted software and documentation and to prepare questions for submission to the auditor. Under the circumstances, the "no-copy" policy unreasonably limits the ability of MCI and other intervenors to participate effectively in this proceeding. Given the fact that this investigation is likely to extend well beyond

this initial one-week review phase, and given the additional fact that intervenors' counsel and experts cannot, due to other business commitments, be expected to remain in the same location indefinitely, MCI believes that its alternative copying provisions, set forth above at page 3, reasonably accommodate the interests of all parties to the investigation. MCI's proposal applies the same prior written consent requirement that the Bureau adopted for the independent auditor (Procedural Order, Attachment C, Auditor Nondisclosure Agreement, at para. 4). Therefore, MCI urges the Commission, upon review, to adopt the revised copying provisions described herein.

C. The Same Public Interest Considerations Favoring Intervenors' Access To Confidentially Sensitive Materials Would Be Served By A Provision Expressly Authorizing Cooperative Analysis And Information Exchange Among Intervenors' Experts.

In the Procedural Order, at para. 39, the Bureau expressly acknowledged that

> the broad public purposes of the Commission's ONA initiative will unquestionably be far better served if prospective customers of these offerings are enabled to contribute their specialized expertise to the resolution of issues in the ONA tariff investigation.

MCI submits that one important element of effective participation in this or any other tariff investigation is the interaction, on both a formal and an informal basis, of parties with similar interests. Apart from a hint of approval of cooperative efforts which can arguably be gleaned from the passing reference to "specialized expertise" quoted immediately above, the Bureau's Procedural Order is wholly silent on the issue of cooperative

efforts among intervenors. The only provision in the Nondisclosure Agreement which even remotely touches upon the issue is paragraph 12(d), which states that competitively sensitive portions of pleadings shall be served only upon the Commission and the affected BOC, unless the Commission directs otherwise. This would appear to allow the Commission staff, on a case by case basis, to permit intervenors to exchange the competitively sensitive portions of pleadings.

MCI shares the concerns expressed by counsel for Williams Telecommunications Group, Inc. (WilTel) in their letters to Bellcore and U S West, dated February 28, 1992 (copies attached hereto as Exhibit C). MCI supports WilTel's request that Bellcore and U S West send each intervenor a list of persons signing the Nondisclosure Agreements. A list containing the names, telephone numbers and affiliations of those persons would facilitate necessary dialogue among them.

MCI further requests that the Commission revise the Nondisclosure Agreement by the addition of a provision (such as that set forth at page 3, item 3, above) expressly authorizing communications concerning competitively sensitive information among "authorized individuals" representing various intervenors, and expressly authorizing intervenors to exchange competitively sensitive portions of pleadings with one another.

III. CONCLUSION

The unexplained and unreasonable restrictions imposed by the

Bureau on intervenors' access to competitively sensitive materials simply cannot be reconciled with the Commission's longstanding policy favoring the fullest practicable access to tariff support material by parties to tariff investigations. The alternative provisions proposed herein are fully adequate to protect whatever proprietary interests the BOCs, Bellcore and the switch vendors may have in the redacted software and other information provided to intervenors pursuant to the Procedural Order. Absent adoption of these changes, there is a risk that the entire process will be overturned on appeal.

In view of the foregoing, the Commission respectfully is requested to promptly grant this Application for Review, to issue a modified procedural order containing the provisions described herein, and direct the Bureau, in future actions taken pursuant to delegated authority in connection with the procedural rights of parties to tariff investigations, to explain fully the bases for its actions.

Respectfully submitted,

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Dated: March 2, 1992

APPENDIX C

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)
	)
Commission Requirements for Cost	)
Support Material To Be Filed with	)
Open Network Architecture	)
Access Tariffs	)

MCI REPLY TO OPPOSITIONS TO APPLICATION FOR REVIEW

MCI TELECOMMUNICATIONS CORPORATION
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Dated: April 1, 1992

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Summary

In its Application for Review, MCI asked the Commission to eliminate the arbitrary and unreasonable restrictions imposed by the Bureau on intervenors' access to the cost models used by the Bell Operating Companies (BOCs) in the preparation of support materials for their initial ONA access tariffs. None of the four BOCs who submitted Oppositions to MCI's Application for Review has shown that there is any Commission precedent for the conditions imposed by the Bureau. None has provided any basis for the continued imposition of these onerous restrictions in this important proceeding.

The BOCs have unfairly and improperly exploited every opportunity provided by the Bureau in the Procedural Order and in the Model Nondisclosure Agreement to impede intervenors' access to, and analysis of, BOC cost models. Inasmuch as the Bureau has failed to rein in the BOCs, it is incumbent on the Commission to restore order and legitimacy to the investigation and thereby send a clear signal to the BOCs that it intends more than have the Bureau merely rubber-stamp the BOC tariffs.

The Commission should establish new ground rules for the ONA access tariff investigation which permit the sort of full intervenor participation that the Commission clearly envisioned and Title II of the Communications Act requires. Once the unreasonable limitations on their participation have been removed, intervenors will be able to assist the Bureau in the

important task of analyzing the tariff submissions to insure that the BOCs' initial ONA access tariffs are appropriately cost-based and, therefore, just and reasonable under Section 201(b) of the Communications Act.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)
	)
Commission Requirements for Cost	)
Support Material To Be Filed with	)
Open Network Architecture	)
Access Tariffs	)

MCI REPLY TO OPPOSITIONS
TO APPLICATION FOR REVIEW

MCI Telecommunications Corporation (MCI), pursuant to Section 1.115 of the Commission's Rules, 47 C.F.R. § 1.115, hereby submits this Reply to Oppositions to MCI's Application for Review.[1/] MCI sought review of an order issued by the Common Carrier Bureau (Bureau), Memorandum Opinion and Order, DA 92-129, released January 31, 1992 (Procedural Order). The Procedural Order imposes unreasonable restrictions on the ability of MCI and other intervenors in the Commission's Open Network Architecture (ONA) access tariff investigation to examine the cost models used by the Bell Operating Companies (BOCs) to prepare support materials filed for their initial ONA access tariffs. These restrictions undermine the process established in the statute for review of carrier-initiated tariff filings and will not withstand scrutiny or judicial review.

1/ Oppositions were filed March 17, 1992 by the Bell Atlantic telephone companies (Bell Atlantic), Pacific Bell and Nevada Bell (Pacific), Southwestern Bell Telephone Company (SW Bell), and U S WEST Communications, Inc. (U S WEST). Comments in support of MCI's Application for Review were filed March 18, 1992 by Sprint Communications Company LP (Sprint).

Introduction

MCI asked the Commission to eliminate two restrictions on intervenor access (the "one attorney, two expert" limitation and the "no-copy" policy). MCI also requested that the Commission modify the Bureau's Model Nondisclosure Agreement for intervenors to include provisions: (1) expressly allowing authorized individuals to discuss cost models with their counterparts acting on behalf of other intervenors; and (2) expressly allowing intervenors to exchange competitively sensitive portions of pleadings with one another.

As the Commission is well aware, the investigation of the BOCs' initial ONA access tariffs is a proceeding of major consequence. ONA access tariffs which are not cost-justified will have a dramatic adverse effect on the future of competition -- not only in the enhanced services industry, but in the interexchange market as well -- if the Commission does not reverse its ill-considered decision to require the unbundling of Feature Group access services which have served the industry well for nearly a decade.

The BOCs have unfairly and improperly exploited every opportunity provided by the Bureau in the Procedural Order and in the Model Nondisclosure Agreement to impede intervenors' access to, and analysis of, BOC cost models. Inasmuch as the Bureau has failed to rein in the BOCs, it is incumbent on the Commission to restore order and legitimacy to the investigation and thereby

send a clear signal to the BOCs that it intends more than have the Bureau merely rubber-stamp the BOC tariffs.

The Commission should establish new ground rules for the ONA access tariff investigation which permit the sort of full intervenor participation that the Commission clearly envisioned and Title II of the Communications Act requires. Once the unreasonable limitations on their participation have been removed, intervenors will be able to assist the Bureau in the important task of analyzing the tariff submissions to insure that the BOCs' initial ONA access tariffs are appropriately cost-based and, therefore, just and reasonable under Section 201(b) of the Communications Act.

Discussion

Bell Atlantic argues that "any limitations placed by the Bureau on MCI's access simply cannot constitute reversible error"[2/] because "cost support requirements are not 'intended primarily to confer important procedural benefits upon individuals' but rather to provide the Commission with the information necessary to judge a proposed tariff...."[3/] However, the same D.C. Circuit decision cited by Bell Atlantic and the other BOCs also recognizes that "another purpose of the tariff filing rules is to provide customers...with information

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2/ Bell Atlantic Opposition, at 2.

3/ Bell Atlantic Opposition, at 2, fn. 5, citing American Farm Lines v. Black Ball Freight Service, 397 U.S. 532, 538 (1970) and Aeronautical Radio v. F.C.C., 642 F.2d 1221, 1235 (D.C. Cir. 1980)(ARINC). See also Southwestern Bell Opposition, at 2-3; Pacific Opposition, at 3-4.

that will serve as the basis for comment."[4/] In this particular proceeding, the Commission has placed particular emphasis on customer review of ONA cost support, including proprietary cost models. As the Bureau observed in the order under review, Commission policy in this proceeding favors "the fullest possible access to these materials by entities that will use the unbundled ONA structure and services." [5/]

Pacific asserts that any limitations the Bureau may impose on the participation of MCI and other intervenors in the tariff review process are not unreasonable "because Sections 206-208 of the Act already confer on intervenors the right to force independent investigations of the tariffs by filing complaints." Pacific, at 4. Pacific's argument fails to give due recognition to the Commission's broad and flexible powers under the Act.[6/] If, by adopting a policy favoring the "fullest practicable" participation by potential customers in the ONA access tariff investigation, the Commission succeeds in significantly reducing the need for customers to file complaints pursuant to Sections 206-208 of the Act, the interests of all parties in the "proper dispatch" of the Commission's business will have been well

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4/ ARINC, supra, 642 F.2d 1221, 1235. See Pacific Opposition, at 3.

5/ Procedural Order, at para. 3; see also para. 39.

6/ Section 4(j) of the Communications Act of 1934, as amended (47 U.S.C. Section 154(j)): "The Commission may conduct its proceedings in such a manner as will best conduce to the proper dispatch of business and to the ends of justice."

served.[7/]

Despite the BOCs' efforts to direct the Commission's attention elsewhere,[8/] the issue before the Commission on review is whether the particular limitations imposed by the Bureau are consistent with the Commission's policy. Clearly, they are not.

As demonstrated by Sprint in its Comments in support of MCI's Application for Review, the Commission's policy and practice in other proceedings involving confidential information is to enter protective orders (or approve nondisclosure agreements) which make such information available to parties with

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7/ Since Pacific has broached the subject of formal complaints, MCI wishes to note that in the Commission's recent Notice of Proposed Rulemaking in CC Docket No. 92-26 (FCC 92-59, released March 12, 1992) concerning proposed changes in formal complaint procedures, it proposes is a new rule, Section 1.731, specifying the manner in which proprietary materials produced in complaint proceedings may be used, duplicated and disseminated. The proposed rule, which the Commission describes as modeled on protective agreements entered in past cases, contains none of the onerous and unreasonable restrictions imposed by the Bureau (and defended by the BOCs) in this proceeding.

8/ Pacific's suggestion (at pp. 1-2) to the contrary notwithstanding, the question of whether MCI and the other intervenors in this proceeding may review all or any part of the allegedly proprietary BOC cost models under a nondisclosure agreement is largely unrelated to the question of "public disclosure" under FOIA. The Bureau recognized as much in its discussion of the SNFA proceedings (Procedural Order, para. 31). At this stage of the proceeding, only the Bureau has seen enough of the allegedly proprietary cost models to be in a position to determine whether there is any "commercially sensitive information" in them. The Bureau's earlier order denying public disclosure under FOIA is the subject of a separate application for review filed by Allnet.